IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4242 OF 2004

Ajay Jayram Mewada ..Applicant

versus

The State of Maharashtra ..Respondents

Mr. A. G. Lalla i/b. Lalla & Lalla for the Applicant.

Mr. V. B. Konde-Deshmukh A.P.P. for the Respondents.

CORAM : A.M. KHANWILKAR,J.

DATE : 20TH OCTOBER 2004.

P.C. :

1. Heard counsel for the parties. Perused the record. The prosecution case is that the applicant was arrested as he was found to be in possession of 1 kg. of charas during the raid conducted by the police. According to the applicant assuming that the prosecution case is to be accepted as it is even so seizure of 1 kg. of charas from the applciant is not a commercial quantity and for which rigorous of Section 37 of the Act will have no applciation. To support the above submission that 1 kg. of charas is not commercial quantity, reliance is placed on the Full Bench Judgment of Himachal Pradesh in the

case of **Ratto vs. State of H.P. reportedin 2003(3) Crimes 323.** The Himachal Pradesh High Court has considered all the aspects of the matter and has taken a view that seizure of 1 kg. of charas will not amount to seizure of commercial quantity. That is a possible view for the reasons recorded in paragraphs 19 onwards of the reported decision. The learned APP is not in a position to point out any contrary view on this subject.

2. In the circumstances at this stage we will have to proceed on the assumption that seizure of 1 kg. of charas from the possession of the applicant cannot be said to be seizure of commercial quantity and for which reason the rigours of Section 37 of the Act cannot be invoked as against the applicant. If it is so the applicant deserves to be enlarged on bail on strict conditions:

(a) The applicant is enlarged on bail in connection with C.R. No. 1 of 2004 registered at Anti Narcotic Cell Office, on executing personal bond in the sum of Rs.1,00,000/= (Rupees One Lac only) with two local sureties in the like amount.

(b) The applicant shall attend the concerned office and Investigating officer once in fortnight on Saturday between 10 a.m. to 1

p.m.

(c) The applicant shall inform his place of residence where he intends to reside after his release within one week from the date of his release to the Investigating Officer as well as to the Registrar of the concerned court.

(d) The applicant shall not engage himself in similar activity while on bail.

(e) The applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(f) The applicant shall extend full co-operation to the trial court for early disposal of the case. In the event the trial court is of the opinion that the applicant is responsible for the smooth progress of the trial, that fact be recorded in the roznama which can be a ground for cancellation of bail.

Application disposed of accordingly.

A.M. KHANWILKAR, J.